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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,777	07/21/2003	Marc Vathauer	PO7754/LeA 36,210	6111
34947	7590	01/11/2005	EXAMINER	
LANXESS CORPORATION PATENT DEPARTMENT/ BLDG 14 100 BAYER ROAD PITTSBURGH, PA 15205-9741			WOODWARD, ANA LUCRECIA	
			ART UNIT	PAPER NUMBER
			1711	

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/623,777

Applicant(s)

VATHAUER ET AL.

Examiner

Ana L. Woodward

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE Three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/26/2004, 7/21/2003
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
- 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
- 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/26/04, 7/21/03
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, the metes and bounds of “impact modifier” are indefinite as to scope and meaning. As presently recited, said component reads on any of components C, D, E and F.

In claim 2, no distinction can be seen between components B, E and F. As presently recited, said components read on one and the same entity.

In claim 3, “laurinlactam from terephthalic acid” is indefinite as to scope and meaning.

In claim 5, line 2, the plural form “polymers” is queried.

In claim 6, it is unclear as to whether or not monomers B.1.1 and B.1.2 can simultaneously be the same “(meth)acrylic acid-(C1-C8)-alkyl ester”.

In claim 6, it is unclear how the generic “derivatives of unsaturated carboxylic acids” distinguish over the antecedently recited “(meth)acrylic acid-(C1-C8)-alkyl ester”.

In claim 12, line 2, the plural form “copolymers” is queried.

In claim 12, it is unclear as to whether or not monomers F.1 and F.2 can simultaneously be the same “(meth)acrylic acid-(C1-C8)-alkyl ester”.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 9-12 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 4,970,272 (Gallucci).

Gallucci disclose compositions comprising:

a) polyphenylene ether, not precluded from the present claims;

b) polyamide, corresponding to applicants' component A; and

c) polyhydric phenol, corresponding to applicants' component D. The blending ratio of polyphenylene ether to polyamide is 5 to 95% by weight of the former to 95 to 5% by weight of the latter. The amount of polyhydric phenol is from about 1 to about 20 parts by weight per 100 parts by weight of polyphenylene ether and polyamide. In preferred embodiments, a compatibilizing agent and/or impact modifier is additionally employed.

In the examples, various compositions meeting the requirements of the above-rejected claims, both in terms of the types of materials added and their contents, are set forth. Included among the exemplified compositions are those comprising polyamide 6 or polyamide 66 in combination with the impact modifier SEBS block copolymer, the compatibilizers citric acid and maleic anhydride and polyhydric phenol.

Claims 10-12 have been incorporated into this rejection because none actually require the presence of the recited component.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5-8 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 4,970,272 (Gallucci) described hereinabove.

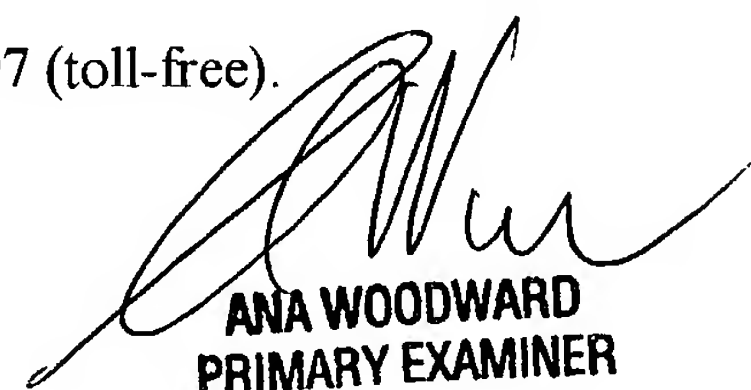
The disclosure of Gallucci does not expressly exemplifying the particular impact modifiers of claims 5-8 or the adjuvants of claim 13. With respect to the impact modifiers, attention is directed to Gallucci's disclosure of ABS graft copolymers and EPDM rubbers as suitable impact modifiers for his invention (column 12, lines 64-66, column 13, lines 61-64, etc.). As to the use of adjuvants, such are rendered obvious by the disclosure at column 15, lines 3-9, etc. Accordingly, no patentability can be seen in applicants' claimed subject matter.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ana L. Woodward whose telephone number is (571) 272-1082. The examiner can normally be reached on Monday-Friday (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on (571) 272-1078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


ANA WOODWARD
PRIMARY EXAMINER